

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK**

WILD WATER FLY FISHING	)	
	)	
	)	
Plaintiff,	)	Case No: 17-cv-06694
	)	
v.	)	
	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	
	)	

**COMPLAINT FOR TAX REFUND**

Plaintiff, Wild Water Fly Fishing (“Wild Water”), by and through counsel, brings this action for tax refund against the United States of America for the 2014 through 2016 taxable years, inclusive. In support thereof, Plaintiff alleges as follows:

**I. Cause of Action**

1. This is an action pursuant to 26 U.S.C. § 7422 for the recovery of Internal Revenue taxes which were erroneously and improperly assessed and collected from Plaintiffs, which the Plaintiffs have paid in full and which are due to be refunded, with interest and costs.

**II. Jurisdiction**

2. This Court has jurisdiction pursuant to 26 U.S.C. § 7422 and 28 U.S.C. § 1346.

**III. Venue**

3. Venue is proper on this judicial district under 28 U.S.C. §§ 1391(e) and 1402 because plaintiff Wild Water has its principal place of business in this judicial district, and because the defendant is the United States of America.

#### **IV. Parties**

4. Wild Water is a corporation organized under the laws of New York. Currently, and during all relevant quarters, Wild Water was a corporate resident of the State of New York. Wild Water's current mailing address is 237 Lake Road, Ontario, NY 14519.

5. United States of America is named as the Defendant pursuant to 26 U.S.C. § 7422(f)(1). The Internal Revenue Service is an agency of Defendant.

#### **V. Statement of Facts**

6. Wild Water was founded in 2006 by Eric Dodds, who sought to combine his mechanical engineering and manufacturing experience with his love of fishing.

7. Wild Water is in the business of selling sport fly fishing equipment.

8. To that end, Wild Water purchases fishing rod components and tackle from suppliers worldwide according to Wild Water's product design, assembly method, and component specifications.

9. Wild Water sells these components individually, but also assembles and packages completed "kits" to consumers.

10. Wild Water sells the products exclusively under its own name through online fulfillment companies and is responsible for shipping its products to consumers.

##### **a. Wild Water's Excise Tax Obligation and The IRS Audit**

11. Wild Water determined that it had a federal excise tax obligation pursuant to I.R.C. § 4161(a)(1).

12. Pursuant to I.R.C. §§ 4161(a)(1) and 4216 and the accompanying Treasury Regulations, Wild Water calculated its tax liability to be 10% of the price for which the materials were sold by the foreign manufacturers to Wild Water.

13. Wild Water timely and consistently filed quarterly Forms 720 and paid the tax shown on those returns.

14. The IRS initiated audit of the Wild Water's Forms 720 excise tax returns for all quarters of 2014 and 2015.

15. On May 16, 2016, IRS issued its audit report, reflecting \$30,036.00 in proposed adjustments across all eight quarters at issue.

16. The IRS based its arguments on an interpretation of Revenue Ruling 81-226, which holds that "the constructive sale price for computing the manufacturer's excise tax imposed by section 4161(a) of the Code when the articles are sold at retail by manufacturers, producers, or importers who do not sell like articles to wholesale distributors, is 60 percent of the actual selling price, after taking into account the adjustments provided by section 4216." That formula has no foundation in the Internal Revenue Code, Treasury Regulations, or case law, and has no appropriate application to this case.

17. Plaintiff timely protested the examination report, and the matter was sent for consideration in IRS Appeals.

18. Plaintiff was represented by the undersigned counsel at its Appeals conference.

19. Despite the argument set forth in Plaintiff's protest, its reply to IRS's rebuttal, and the case briefing requested by the Appeals' Officer during the conference, the Appeals Officer advised Plaintiff's representative, via telephone on February 2, 2017, that he was giving "deference" to the Agent's determination and sustaining the IRS' position in full. The Appeals Officer advised that he gave such "deference" because the Agent "specialized" in excise tax while he and Petitioner's counsel did not.

20. On February 3, 2017, Plaintiff submitted a Qualified Offer pursuant to 26 U.S.C. § 7430(g) to the Appeals Officer. To date, Plaintiff has not received a response to that Offer. A copy of the Qualified Offer is attached hereto as **Exhibit A**.

21. Pursuant to 26 U.S.C. § 7430(g)(1)(D), that Qualified Offer was deemed rejected on May 4, 2017.

22. By letter dated February 15, 2017, Plaintiff received an IRS determination letter sustaining the IRS' proposed adjustments in full. That letter failed to provide any legal basis for its position. A copy of that letter is attached hereto as **Exhibit B**.

23. Pursuant to the IRS' determination, it assessed the following amounts against the Plaintiff:

<b>Quarter</b>	<b>Tax Assessed</b>
Q1 2014	\$1,663.00
Q2 2014	\$2,855.00
Q3 2014	\$3,399.00
Q4 2014	\$3,953.00
Q1 2015	\$2,624.00
Q2 2015	\$2,556.00
Q3 2015	\$3,335.00
Q4 2015	\$9,651.00

#### **b. Payment**

26. Excise tax is a divisible tax under *Flora v. United States*, 362 U.S. 145 (1960).

27. Accordingly, Plaintiff Wild Water is required to pay only the tax for one quarter for its entire refund and abatement claim to be valid.

28. By letter dated March 22, 2017, Plaintiff paid the tax assessed for Q1 2014 (\$1,663.00) in full. A copy of that payment is attached hereto as **Exhibit C**.

29. Beginning the first quarter of 2016 through present, Plaintiff has been calculating and paying its excise tax on Form 720 pursuant to the IRS' formula, under protest, so that it may protect against the Service's imposition of penalties and, at the same time, protect its rights to recoup refund for such payments.

#### **VI. Procedural History - Administrative Claim for Refund**

30. I.R.C. § 7422(a) requires that Taxpayers file a claim for refund with the Secretary prior to filing suit in the District Court.

31. Pursuant to that provision, on April 17, 2017, Plaintiff filed Forms 843 Claim for Refund and Request for Abatement for Q1 2014 – Q4 2016, inclusive, requesting a refund of the Q1 2014 payment and Q1-Q4 2016 overpayments and an abatement of the assessed amounts for Q2 2014 – Q4 2015, inclusive. Plaintiff included a recitation of facts and a legal analysis supporting its claim, along with a copy of the Qualified Offer that had been submitted to the Appeals Officer.

32. I.R.C. § 6532 further provides that no suit may be filed “before the expiration of 6 months from the date of filing the claim required under such section unless the Secretary renders a decision thereon within that time.”

33. In response to Plaintiffs' Forms 843, the Internal Revenue Service's Cincinnati Campus, by correspondence dated June 9, 2017, advised that they cannot “process your claim for the tax periods listed above....one or more of the ITINs associated with your request is expired.

You will need to file Form W-7, Application for IRS Individual Taxpayer Identification Number, with supporting documentation, along with a completed Form 1040X, Amended U.S. Individual Income Tax Return, to renew the ITINs.”

34. That letter further advised: “You have filed fishing claims on Forms 843 requesting tax abatement for the above periods which have been denied by the Appeals department. You have not provided any new information to change our decision. The only option you have at this time is to litigate this issue by filing a claim with the US Tax Court per IRS Publication 510, if you disagree with our decision.” A copy of that letter is attached hereto as **Exhibit D**.

35. Plaintiff replied to that correspondence with a letter requesting clarification that the June 9<sup>th</sup> correspondence constituted a denial pursuant to I.R.C. § 6532, as Plaintiff’s claim does not involve ITINs or Form 1040X.

36. Plaintiff’s representative received a voicemail from an IRS representative on July 17, 2017, confirming that Plaintiff’s administrative refund claim had been denied.

**WHEREFORE**, Plaintiffs respectfully demand judgment in their favor and against the Defendant United States of America:

(1) For a refund in the amount of \$1,663.00 as the amount of the assessed tax paid for Q1 2014, plus interest as provided by law;

(2) For an abatement in the amount of \$2,855.00 as the amount of the of the assessed tax for Q2, 2014;

(3) For an abatement in the amount of \$3,399.00 as the amount of the of the assessed tax for Q3, 2014;

(4) For an abatement in the amount of \$3,953.00 as the amount of the of the assessed tax for Q4, 2014;

(5) For an abatement in the amount of \$2,624.00 as the amount of the of the assessed tax for Q1, 2015;

(6) For an abatement in the amount of \$2,556.00 as the amount of the of the assessed tax for Q2, 2015;

(7) For an abatement in the amount of \$3,335.00 as the amount of the of the assessed tax for Q3, 2015;

(8) For an abatement in the amount of \$9,651.00 as the amount of the of the assessed tax for Q4, 2015;

(9) For a refund in the amount of \$2,100.08 as the amount of the erroneous tax paid under protest for Q1 2016, plus interest as provided by law;

(10) For a refund in the amount of \$5,749.61 as the amount of the erroneous tax paid under protest for Q2 2016, plus interest as provided by law;

(11) For a refund in the amount of \$2,913.87 as the amount of the erroneous tax paid under protest for Q3 2016, plus interest as provided by law;

(12) For a refund in the amount of \$5,345.43 as the amount of the erroneous tax paid under protest for Q4 2016, plus interest as provided by law; and

(13) For Plaintiff's costs, attorney's fees, and any such other relief as this Court deems fair and appropriate.

DATED: October 6, 2017

Respectfully Submitted,

ANDREOZZI BLUESTEIN LLP

By: /s/Randall P. Andreozzi  
Randall P. Andreozzi, Esq.  
9145 Main Street  
Clarence, NY 14031  
T: (716) 565-1100  
F: (716) 565-1920  
rpa@andreozzibluestein.com

By: /s/Heather L. Mareello  
Heather L. Mareello, Esq.  
9145 Main Street  
Clarence, NY 14031  
T: (716) 565-1100  
F: (716) 565-1920  
hlm@andreozzibluestein.com

# EXHIBIT A



**NORTHTOWN**  
9145 Main St. Clarence, NY 14031  
P 716-565-1100 F 716-565-1920

**SOUTHTOWN**  
501 West 3rd St. Suite 5 Jamestown, NY 14701  
P 716-281-0980 F 716-296-0218

February 3, 2017

**Via U.S. Certified Mail & Facsimile (2 Pages)**

Internal Revenue Service  
Gary R. Mack, Appeals Officer  
130 South Elmwood Ave., Suite 125  
Buffalo, NY 14202  
Efax: 888-323-7459

**Re: Wild Water Fly Fishing (EIN: [REDACTED])  
Qualified Offer under IRC § 7430(g) and Treas. Reg. § 301.7430  
Form: 720 Taxable Year: 1/1/2014-12/31/2015 ALL QUARTERS**

Dear Appeals Officer Mack:

This qualified offer is made for the purposes of IRC § 7430(g), and refers to the IRS Appeals proceeding involving the Service's proposed penalties for Form 720 for all quarters during the 2014 and 2015 taxable years. The Service proposes the following deficiencies against Wild Water Fly Fishing ("Wild Water") for those periods:

<b>Period</b>	<b>Proposed Tax Deficiency</b>
2014-03	\$1,663.00
2014-06	\$2,855.00
2014-09	\$3,399.00
2014-12	\$3,953.00
2015-03	\$2,624.00
2015-06	\$2,556.00
2015-09	\$3,335.00
2015-12	\$9,651.00
<b>TOTAL</b>	<b>\$30,036.00</b>

In Wild Water's protest, its reply to the IRS's rebuttal, our Appeals Conference, and supplemental briefing after that conference, we thoroughly presented and analyzed the statute and regulations governing Wild Water, establishing Wild Water's compliance with such authority, and addressed the IRS's arguments regarding the application and effect of Revenue Ruling 81-226. Despite Wild Water's compliance with the applicable statute and regulations, we received notification from you that Appeals intends to sustain the position of exam in full. You expressly stated that you gave "deference" to the examiner's arguments because she specializes in excise tax and explained that, even if you were to agree with our position, that the case would be reviewed by an excise tax

specialist and you would likely be directed to affirm the position of exam regardless of our arguments. Indeed, you presented no legal or factual analysis to dispute our presentation.

Aside from any arguments regarding whether Appeals conducted an *independent* review in this matter, a Revenue Ruling cannot circumvent Congressional Authority or a Treasury Regulation, and all binding guidance in this case supports Wild Water's position. The IRS has yet to assert any colorable legal argument to rebut Wild Water's arguments. So, while you attempted to discourage a Qualified Offer by stating that the procedure would be a waste of taxpayer resources and suggested that we pursue our legal remedy with the District Court, Wild Water presents this Qualified Offer, as instances such as these are precisely why Qualified Offers exist.

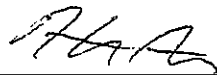
Pursuant to the regulations, the taxpayer hereby offers to pay 1% of the proposed assessments for each quarter in the IRS 30-Day letter for a total \$300.36 in full settlement of all proposed tax deficiencies in this matter for the 2014-2015 taxable years. This offer is in full settlement of all substantive issues for the 2014-2015 taxable years upon which this proceeding before IRS Appeals was based.

Pursuant to the regulations, this qualified offer is effective beginning today and ending on the earliest of (1) the date the offer is rejected; (2) the date trial begins; or (3) the 90<sup>th</sup> day after today. The taxpayer represents that he has disclosed all relevant information concerning the issues raised in this case.

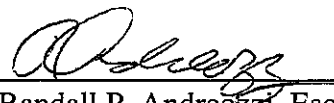
The taxpayer represents that if accepted, this qualified offer will resolve all of the issues for the tax period covered by the offer currently before IRS Appeals. As you are aware, if we are required to litigate this issue and are determined to be the prevailing party, we will be entitled to an award of attorney's fees.

This qualified offer is sent to IRS Appeals Officer Gary R. Mack in Buffalo, New York as required by the regulations, to assure the taxpayer's qualified offer is received by the office with jurisdiction over the case at the time the qualified offer is made, and to facilitate the government's ability to act expeditiously on this qualified offer. If your case file has been forwarded elsewhere, please send this Offer to the appropriate representative.

Very Truly Yours,



Heather L. Schmidt, Esq.



Randall P. Andreozzi, Esq.

cc: Wild Water Fly Fishing

# Xerox Color C60

## Transmission Report

G3-ID 1111  
 Local Name XEROX C60  
 Company Logo XEROX

Date & Time : 02/03/2017 2:39 PM  
 Page : 1 (Last Page)

The job has been sent.  
 Original Size: 8.5 x 11"



NORTHTOWN  
 8145 Main St. Clarence, NY 14031  
 P 716-545-3000 F 716-555-1920

SOUTHTOWN  
 501 West 3rd St. Suite 5 Jamestown, NY 14701  
 P 716-281-0980 F 716-295-0218

February 3, 2017

**Via U.S. Certified Mail & Facsimile (2 Pages)**

Internal Revenue Service  
 Gary R. Mack, Appeals Officer  
 130 South Elmwood Ave., Suite 125  
 Buffalo, NY 14202  
 Efax: 888-323-7459

Re: Wild Water Fly Fishing (EIN: [REDACTED])  
 Qualified Offer under IRC § 7430(g) and Treas. Reg. § 301.7430  
 Form: 720 Taxable Year: 1/1/2014-12/31/2015 ALL QUARTERS

Dear Appeals Officer Mack:

This qualified offer is made for the purposes of IRC § 7430(g), and refers to the IRS Appeals proceeding involving the Service's proposed penalties for Form 720 for all quarters during the 2014 and 2015 taxable years. The Service proposes the following deficiencies against Wild Water Fly Fishing ("Wild Water") for those periods:

Period	Proposed Tax Deficiency
2014-03	\$1,663.00
2014-06	\$2,855.00
2014-09	\$3,399.00
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2015-09	\$3,335.00
2015-12	\$9,651.00
<b>TOTAL</b>	<b>\$30,036.00</b>

In Wild Water's protest, its reply to the IRS's rebuttal, our Appeals Conference, and supplemental briefing after that conference, we thoroughly presented and analyzed the statute and regulations governing Wild Water, establishing Wild Water's compliance with such authority, and addressed the IRS's arguments regarding the application and effect of Revenue Ruling 81-226. Despite Wild Water's compliance with the applicable statute and regulations, we received notification from you that Appeals intends to sustain the position of exam in full. You expressly stated that you gave "deference" to the examiner's arguments because she specializes in excise tax and explained that, even if you were to agree with our position, that the case would be reviewed by an excise tax

AndreozziBluestein.com

#	Job	Remote Station	Start Date & Time	Duration	Pages	Protocol	Contents	Status
1	7221	18883237459	2-3; 2:38 PM	51 Secs	2/2	ECM	Completed	

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9214 8969 0099 9790 1201 8079 52

Certified Mail Fee

\$ **\$0.670**

Extra Services &amp; Fees (check box, add fee as appropriate)

- ☐ Return Receipt (hardcopy) **\$3.35**
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required **\$1.45**
- ☐ Adult Signature Restricted Delivery \$

Postage

**\$0.00**

\$

Total Postage and Fees **\$5.470**

\$

Internal Revenue Service

Sent To

Gary R. Mack, Appeals Officer  
130 South Elmwood Ave., Suite 125  
Buffalo, NY 14202Street, Apt. No.,  
or PO Box No.  
City, State, Zip+4

Electronic Return Receipt Requested

Postmark  
Here

Code: ANZ-16-0020

**PS Form 3800, April 2015****See Reverse for Instructions**

[English](#)[Customer Service](#)[USPS Mobile](#)[Register / Sign In](#)

# USPS Tracking®

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Sign up for My USPS.**Tracking Number:** 92148969009997901201807952**On Time****Updated Delivery Day:** Monday, February 6, 2017

## Product & Tracking Information

**Postal Product:**

First-Class Mail®

**Features:**

Certified Mail™

**DATE & TIME**

February 6, 2017 , 10:27 am

**STATUS OF ITEM**

Delivered, To Mail Room

**LOCATION**

BUFFALO, NY 14202

Your item has been delivered to the mail room at 10:27 am on February 6, 2017 in BUFFALO, NY 14202.

February 6, 2017 , 9:52 am

Out for Delivery

BUFFALO, NY 14202

February 6, 2017 , 9:36 am

Sorting Complete

BUFFALO, NY 14202

February 6, 2017 , 9:04 am

Arrived at Unit

BUFFALO, NY 14202

February 6, 2017 , 12:55 am

Departed USPS Facility

BUFFALO, NY 14240

February 5, 2017 , 12:47 pm

In Transit to Destination

February 3, 2017 , 7:08 pm

Arrived at USPS Facility

BUFFALO, NY 14240

February 3, 2017 , 5:53 pm

Accepted at USPS Origin Facility

CLARENCE, NY 14031

## Available Actions

[Return Receipt Electronic](#)[Text Updates](#)[Email Updates](#)

## Track Another Package

**Tracking (or receipt) number**[Track It](#)

## Manage Incoming Packages

Track all your packages from a dashboard.  
No tracking numbers necessary.

[Sign up for My USPS ›](#)

# EXHIBIT B

**Internal Revenue Service**

Appeals Office

130 South Elmwood Avenue

Suite 125

Buffalo, NY 14202

**RECEIVED**

FEB 21 2017

Date: **FEB 15 2017**

Andreozzi Bluestein  
Weber, Brown, LLP

HEATHER L SCHMIDT  
9145 MAIN ST  
CLARENCE NY 14031

**Department of the Treasury**

**Person to Contact:**

Gary R Mack

Employee ID Number: 1556529

Tel: 716-961-5158

Fax: 888-323-7459

Contact Hours: 7:00 AM-3:30 PM  
(ET)

**Refer Reply to:**

AP:EX:BUF:GRM

**In Re:**

Wild Water Fly Fishing

**SSN/EIN Number:**

[REDACTED]

**Tax Period(s) Ended:**

03/2014 06/2014 09/2014 12/2014

03/2015 06/2015 09/2015 12/2015

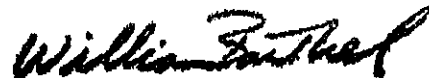
Dear Ms. Schmidt:

We are sending you the enclosed material under the provisions of your power of attorney or other authorization we have on file. For your convenience, we have listed the name of the taxpayer to whom this material relates in the heading above.

If you have any questions, please contact the person at the telephone number shown in the heading of this letter.

Thank you for your cooperation.

Sincerely,



William P Barthel  
Appeals Team Manager

**Internal Revenue Service**  
Appeals Office  
130 South Elmwood Avenue  
Suite 125  
Buffalo, NY 14202

Date: FEB 15 2017

WILD WATER FLY FISHING  
ERIC DODDS  
237 LAKE RD  
ONTARIO NY 14519-9338

**Department of the Treasury**

**Person to Contact:**

Gary R Mack  
Employee ID Number: 1556529  
Tel: 716-961-5158  
Fax: 888-323-7459

**Refer Reply to:**

AP:EX:BUF:GRM

**Form Number:**

720

**Tax Period(s) Ended:**

03/2014 06/2014 09/2014 12/2014  
03/2015 06/2015 09/2015 12/2015

Dear Mr. Dodds:

Unfortunately, we were unable to reach an agreement on your case. The excise tax liability as determined by Appeals will be assessed and you will receive a **Notice and Demand** for payment of the tax, penalty (if applicable) and interest owed. The Excise Tax changes specified by exam on the Form 5385 dated May 16, 2016 and the associated Form 886-A that was previously provided to you remains unchanged.

If you disagree with this decision, you can pay the additional tax when assessed and file a claim for a refund within the applicable statutory period of limitations. Once the claim for refund is denied or 6 months elapse without any action by the Service, you may initiate suit in the United States District Court or the United States Court of Federal Claims.

If you have any questions, please contact the person whose name and telephone number are shown above.

Thank you for your cooperation.

Sincerely,

William P.  
Barthel

Digitally signed by William P. Barthel  
DN: cn=US, o=U.S. Government,  
ou=Department of the Treasury,  
email=William.P.Barthel@treasury.gov,  
serialNumber=370345, c=US

William P Barthel  
Appeals Team Manager

Copy to: Heather L. Schmidt, Esq.  
Christopher Sardone, CPA

# EXHIBIT C



**NORTHTOWN**  
9145 Main St. Clarence, NY 14031  
P 716-565-1100 F 716-565-1920

**SOUTHTOWN**  
501 West 3rd St. Suite 5 Jamestown, NY 14701  
P 716-281-0980 F 716-296-0218

March 22, 2017

**Via Certified Mail**

Internal Revenue Service  
Cincinnati, OH 45999-0039

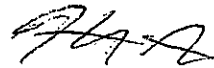
**Re: Wild Water Fly Fishing (EIN: [REDACTED])  
Form 720, Q1 (2014)**

Dear Sir/Madam:

Our Firm represents Wild Water Fly Fishing ("Wild Water") with respect to its federal excise tax matters. Enclosed please find Check No. 1018 in the amount of \$1,663.00. Please apply that amount to ***tax only*** for the above Taxpayer's Form 720 for the quarter ending 3/31/2014.



Please do not hesitate to contact me at 716-565-1100 with any questions or concerns. Thank you for your time and attention to this matter.

Very Truly Yours,



Heather L. Schmidt, Esq.

Cc: Wild Water Fly Fishing

<b>WILD WATER FLY FISHING, LLC</b> The Best Value in Fly Fishing 237 Lake Road Ontario, NY 14519 (585)-967-3474		1018
DATE <u>3/20/17</u>		50-17/223
PAY TO THE ORDER OF <u>UNITED STATES TREASURY</u>		\$ <u>1663.00</u>
<u>ONE THOUSAND SIX HUNDRED SIXTY-THREE AND 00/100</u>		DOLLARS  Security Features Included. Details on back.
<b>CHASE</b>  JPMorgan Chase Bank, N.A. chase.com		<u>H. W. Dada</u> MP
FOR <u>TAX ONLY -</u> <u>FORM 720/Q1 2014</u>		
⑈001018⑈		

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9214 8969 0099 9790 1201 9921 91

Certified Mail Fee

\$ **\$0.670**

Extra Services & Fees (check box, add fee as appropriate)

- ☐ Return Receipt (hardcopy) \$ **\$3.35**
- ☐ Return Receipt (electronic) \$ \_\_\_\_\_
- ☐ Certified Mail Restricted Delivery \$ \_\_\_\_\_
- ☐ Adult Signature Required **\$1.45**
- ☐ Adult Signature Restricted Delivery \$ \_\_\_\_\_

Postage

\$ **\$0.00**

Total Postage and Fees

\$ **\$5.470**

Sent To **Internal Revenue Service**

**Cincinnati, OH 4599-0039**

Street, Apt. No.,  
 or PO Box No.  
 City, State, Zip+4

Electronic Return Receipt Requested

Postmark  
 Here

Code: ANZ-16-0020

USPS Tracking® Results

FAQs > (http://faq.usps.com/?articleId=220900)

Track Another Package +

Remove X

Tracking Number: 92148969009997901201992191



Updated Delivery Day: Monday, March 27, 2017 ⓘ

Product & Tracking Information

See Available Actions

Postal Product:  
First-Class Mail®

Features:  
Certified Mail™

DATE & TIME	STATUS OF ITEM	LOCATION
March 27, 2017, 7:03 am	Delivered	CINCINNATI, OH 45999
<div>Your item was delivered at 7:03 am on March 27, 2017 in CINCINNATI, OH 45999.</div>		
March 27, 2017, 5:47 am	Arrived at Unit	CINCINNATI, OH 45203
March 24, 2017, 5:50 pm	In Transit to Destination	
March 23, 2017, 9:00 pm	Departed USPS Facility	CINCINNATI, OH 45234

# EXHIBIT D

**IRS**Department of the Treasury  
Internal Revenue Service

Case 6:17-cv-06694-CJS-MWP Document 1 Filed 10/06/17 Page 24 of 29

CINCINNATI OH 45999-0062

**RECEIVED**

JUN 12 2017

Andreozzi Bluestein  
LLP

WILD WATER FLY FISHING  
ERIC DODDS MBR  
% HEATHER LYNN MARELLO  
9145 MAIN ST  
CLARENCE NY 14031-1928

CUT OUT AND RETURN THE VOUCHER AT THE BOTTOM OF THIS PAGE IF YOU ARE MAKING A PAYMENT,  
EVEN IF YOU ALSO HAVE AN INQUIRY.

The IRS address must appear in the window.

0280122097

BODCD-SB

Use for payments

Letter Number: LTR0916C

Letter Date : 2017-06-09

Tax Period : 201403

INTERNAL REVENUE SERVICE

CINCINNATI OH 45999-0062



\* [REDACTED] \*

WILD WATER FLY FISHING  
ERIC DODDS MBR  
% HEATHER LYNN MARELLO  
9145 MAIN ST  
CLARENCE NY 14031-1928

JK WILD 03 2 201403 670 000000000000



IRS

Department of the Treasury  
Internal Revenue Service

CINCINNATI OH 45999-0062

In reply refer to: 0280122097  
June 09, 2017 LTR 916C 3  
[REDACTED] 201403 03 1  
00008704  
BODC: SB

WILD WATER FLY FISHING  
ERIC DODDS MBR  
% HEATHER LYNN MARELLO  
9145 MAIN ST  
CLARENCE NY 14031-1928

Taxpayer identification number: [REDACTED]  
Kind of tax: Excise  
Amount of claims: \$ 1,663.00

Date claims received: Apr. 26, 2017  
Tax periods: Mar. 31, 2014 June 30, 2014  
Sep. 30, 2014 Dec. 31, 2014  
Mar. 31, 2015

Dear Taxpayer:

We can't process your claim for the tax periods listed above.

While processing your amended return for the tax period listed above, we made some corrections that may affect your refund or balance due. We made these changes because one or more of the ITINs associated with your request is expired. You will need to file Form W-7, Application for IRS Individual Taxpayer Identification Number, with supporting documentation, along with a completed Form 1040X, Amended U.S. Individual Income Tax Return, to renew the ITINs.

Please see the Attachment to Letter for an explanation regarding the tax periods listed above.

You can get any of the forms or publications you need from our website at [www.irs.gov/formspubs](http://www.irs.gov/formspubs) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you have questions, you can call us at 1-866-699-4096.

If you prefer, you can write to us at the address at the top of the first page of this letter.

When you write, include a copy of this letter and provide in the spaces below, your telephone number with the hours we can reach you. Keep a copy of this letter for your records.

Telephone number ( ) \_\_\_\_\_ Hours \_\_\_\_\_

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If

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June 09, 2017

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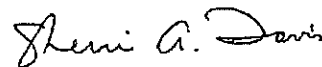
WILD WATER FLY FISHING  
ERIC DODDS MBR  
% HEATHER LYNN MARELLO  
9145 MAIN ST  
CLARENCE NY 14031-1928

you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit [www.taxpayeradvocate.irs.gov](http://www.taxpayeradvocate.irs.gov) or call 1-877-777-4778.

Low Income Taxpayer Clinics (LITCs) are independent from the IRS. LITCs serve individuals whose income is below a certain level and who need to resolve a tax problem with the IRS. LITCs provide professional representation before the IRS or in court on audits, appeals, tax collection disputes, and other issues for free or for a small fee. For more information and to find an LTC near you, see the LTC page at [www.taxpayeradvocate.irs.gov/litcmap](http://www.taxpayeradvocate.irs.gov/litcmap) or IRS Publication 4134, Low Income Taxpayer Clinic List. This Publication is also available by calling the IRS toll-free at 1-800-829-3676 or visiting your local IRS office.

Thank you for your cooperation.

Sincerely yours,



Sherri A. Davis, Operations Manager  
Centralized Specialty

Enclosures:  
Copy of this letter  
Publication 1, Your Rights as a Taxpayer  
Attachment to Letter

**IRS**Department of the Treasury  
Internal Revenue Service

Case 6:17-cv-006694-CJS-MWP Document 1

Filed 10/06/17 Page 27 of 29

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In reply refer to: 0280122097

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ERIC DODDS MBR  
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9145 MAIN ST  
CLARENCE NY 14031-1928

Taxpayer identification number: [REDACTED]  
Kind of tax: Excise  
Amount of claims: \$ 1,663.00

Date claims received: Apr. 26, 2017  
Tax periods: Mar. 31, 2014 June 30, 2014  
Sep. 30, 2014 Dec. 31, 2014  
Mar. 31, 2015

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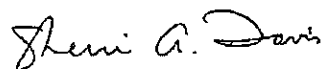
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Sincerely yours,



Sherri A. Davis, Operations Manager  
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Enclosures:

Copy of this letter  
Publication 1, Your Rights as a Taxpayer  
Attachment to Letter

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ATTACHMENT TO LETTER

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NAME: <b>WILD WATER FLY FISHING</b>	Year(s)/Period(s) Ended: <b>3/31/14 – 12/31/16</b>
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**DISALLOWANCE**

You have filed fishing claims on Form 843 requesting **tax abatement** for the above periods which have been **denied by the Appeals department**. You have not provided any new information to change our decision. The only option you have at this time is to litigate this issue by filing a claim with the US Tax Court per IRS Publication 510, if you disagree with our decision.